

MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

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To: Monroe County Development Review Committee

Through: Townsley Schwab, Director of Planning & Environmental Resources

From: Mitchell N. Harvey, AICP, Comprehensive Planning Manager

Date: March 25, 2009

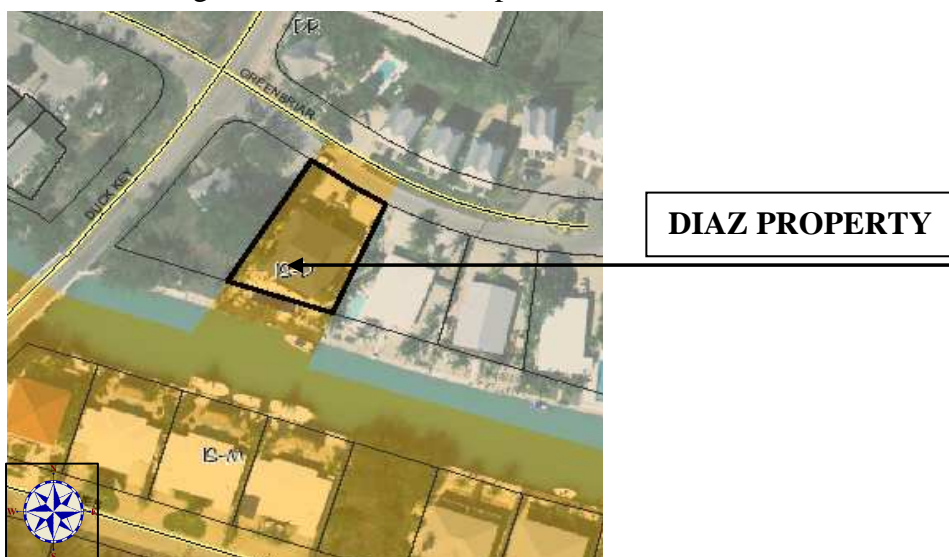
Subject: *Request for an Amendment to the land use district for Fausto and Maria Del Carmen Diaz, 1125 Greenbriar Road, Duck Key, Real Estate Number 00377800-000000*

Meeting Date: April 7, 2009

I REQUEST

A request by the Craig Company on behalf of Fausto and Maria Del Carmen Diaz, to amend the land use district designation from Improved Subdivision – Duplex (IS-D) to Improved subdivision – Vacation Rental (IS-V), in accordance with Section 130-83 of the Monroe County Code, to allow vacation rental uses at 1125 Greenbriar Road, Duck Key. The property is legally described as Block 8, Lot 2, Duck Key Indies Island Section 1, Part 1, PB5-82 Toms Harbor, Monroe County, Florida, having Real Estate Number 00377800-000000.

Existing Land Use District Map



- 1 A. Legal Description: PB 5-82 Block 8, Lot 2, Duck Key Indies Island Section 1, Part 1,
2 Toms Harbor
3 B. Real Estate Number: 00377800-000000
4 C. Applicant/Petitioner: Craig Company
5 D. Property Owners: Fausto and Maria Del Carmen Diaz
6

7 II PROCESS

8 In accordance with the provisions set forth in Sec. 102-158 of the Monroe County Code
9 (MCC), amendments may be proposed by the Board of County Commissioners (BOCC), the
10 Planning Commission, the Director of Planning, or the owner or other person having a
11 contractual interest in property to be affected by a proposed amendment. The Director of
12 Planning shall review and process the text and map amendment applications as they are
13 received and pass them on to the Development Review Committee and the Planning
14 Commission for recommendation and final approval by the BOCC.
15

16 The Planning Commission and the BOCC shall each hold at least one public hearing on a
17 proposed amendment to the text or to the land use district map. The Planning Commission
18 shall review the application, the reports and recommendations of the Department of Planning
19 & Environmental Resources and the Development Review Committee, and the testimony
20 given at the public hearing, and shall submit its recommendations and findings to the BOCC.
21 The BOCC shall consider the report and recommendation of and the testimony given at the
22 public hearings and may either deny the application or adopt an ordinance approving the
23 proposed amendment. Ordinances are then reviewed by the Florida Department of
24 Community Affairs.
25

26 In the event of a written protest against such amendment signed by the owners of twenty (20)
27 percent or more either of the area of the lots or land included in the proposed amendment or
28 of the lots or land immediately adjoining the property to be affected and extending two
29 hundred (200) feet there from, such amendment shall not become effective except by the
30 favorable vote of four (4) members of the BOCC.
31

32 III RELEVANT PRIOR COUNTY ACTIONS

33
34 This property is platted on Plat Book 5, Page 82 of the Public Records of Monroe County.
35 Pre-1986 zoning on the subject property was Multiple-Family Residential District (RU-3). In
36 1986, the property was rezoned Destination Resort (DR) as part of the overall approval for
37 the Development of Regional Impact for the resort community commonly known as Hawks
38 Cay (Monroe County BOCC Resolution No. 365-1986).
39

40 In 1987, the property was rezoned to Improved Subdivision-Duplex (IS-D) in order to retain
41 the multi-family status of the property that was in effect prior to 1986 (Ordinance 039-1987).
42 The existing lawfully permitted duplex was completed in 1994.
43

44 IV BACKGROUND INFORMATION

- 45
46 A. Size of Site: 9,644 Square Feet (0.22 acres)

- 1 B. Tier Designation: Tier III
2 C. Flood Zone: AE
3 D. Existing Use: Developed
4 E. Existing Vegetation / Habitat: Cleared
5 F. Community Character of Immediate Vicinity: The neighborhood consists of residential
6 uses.
7
8

9 V REVIEW OF APPLICATION
10

11 A. *Consistency of the proposed amendment with the provisions and intent of the Monroe*
12 *County Year 2010 Comprehensive Plan:*
13

14 Goals, Objectives and Policies from the Monroe County Year 2010 Comprehensive Plan
15 that directly pertain to the proposed amendments include:
16

17 • 3.1: Future Land Use
18

19 Goal 101: Monroe County shall manage future growth to enhance the quality of life,
20 ensure the safety of County residents and visitors, and protect valuable natural
21 resources.
22

23 Objective 101.4: Monroe County shall regulate future development and
24 redevelopment to maintain the character of the community and protect the natural
25 resources by providing for the compatible distribution of land uses consistent with the
26 designations shown on the Future Land Use Map.
27

28 Staff has determined that the proposed map amendment is consistent with the provisions
29 and intent of the Monroe County Year 2010 Comprehensive Plan.
30

31 B. *Consistency of the proposed amendment with the provisions and intent of Chapter 102 of*
32 *the Monroe County Code, Land Development Regulations:*
33

34 In accordance with MCC Sec. 102-158(d)(5)b, the BOCC may consider the adoption of
35 an ordinance enacting the proposed change based on one (1) or more of the following
36 factors:
37

- 38 i. *Changed projections (e.g., regarding public service needs) from those on which the*
39 *text or boundary was based;*
40

41 ***Applicant Statement:*** Prior to 1986, the subject property was zoned RU-3, suitable
42 for multi-family use. The property is located within the boundaries of the
43 Development of Regional Impact (DRI) commonly known as “Hawks Cay”, by
44 Monroe County Board of County Commissioners Resolution No. 365-1986.
45 Originally zoned Destination Resort (DR) as part of the DRI, the property owner at

1 the time successfully petitioned to retain multifamily status for the then vacant lot
2 pursuant to Ordinance 039-1987.

3
4 The property currently supports a legally permitted duplex completed in 1994. The
5 property is located on the Greenbriar Road cul-de-sac, which is built out and consists
6 of primarily of duplex construction (both pre- and post- 1986) with vacation rentals
7 in place.

8
9 The requested change to Improved Subdivision-Vacation Rental (IS-V) is not
10 anticipated to cause a change in the public service needs of either the subdivision, or
11 Hawks Cay as a whole – the sole purpose of the IS-V designation is to permit the
12 property owner to enjoy the same vacation rental rights as the neighboring and
13 immediately adjoining properties zoned DR.

14
15 **Staff Response:** Staff has no comment regarding the DRI, since it is not relevant to
16 this application. Staff has determined that the proposed map amendment is in
17 accordance with MCC Section 102-158(d)(5)b(1) Changed projections.

18
19 ii. *Changed assumptions (e.g., regarding demographic trends);*

20
21 **Applicant Statement:** BOCC Ordinances No. 004-1997, 030-1999, and 044-2000
22 amended the Code to provide criteria to establish vacation rental uses in existing land
23 use districts and included the creation of the IS-V land use district. These changes
24 occurred to provide a regulatory framework for control of vacation rental uses while
25 providing some flexibility for property owners in residential areas to legally use their
26 property for short term rentals of up to 28 days in response to market trending that
27 included longer stays by vacationers.

28
29 **Staff Response:** The parcels adjacent to the subject property to the north, east, and
30 west are zoned Destination Resort (DR), which allows vacation rentals. The
31 proposed rezoning to IS-V would therefore be compatible with the character of the
32 surrounding area. Staff has determined that the proposed map amendment is in
33 accordance with MCC Section 102-158(d)(5)b(2) Changed assumptions.

34
35 iii. *Data errors, including errors in mapping, vegetative types and natural features*
36 *described in Volume 1 of the Monroe County Year 2010 Comprehensive Plan;*

37
38 **Applicant Statement:** There have been no errors noted in mapping, vegetative types,
39 or natural features. The subject property was rezoned from DR to IS-D by map
40 amendment in 1987 and is developed with a duplex and no significant vegetation.
41 While the scale of the Monroe County Future Land Use Maps is such that it is
42 difficult to identify a single lot, Monroe County Planning Department Staff has
43 determined that the FLUM for the property is Residential Medium (RM) – an overlay
44 category that does not include DR.

45
46 **Staff Response:** Not applicable

iv. *New issues;*

Applicant Statement: Ordinance 004-1997, as adopted by the BOCC, created Section 9.5-242.5 of the MCC to permit tourist housing in the IS-T land use district. The language of the Code was subsequently amended by Ordinance 044-2000, which further refined the criteria applicable to the establishment of tourist housing in the Improved Subdivision land use district, renamed with the sub-indicator of IS-V. The land use district IS-T/IS-V was not contemplated or available at the time that the property was rezoned to IS-D.

Staff Response: Not applicable

v. *Recognition of a need for additional detail or comprehensiveness;*

Applicant Statement: The Greenbriar Road cul-de-sac is built out and consists of primarily duplex uses – most of which are used for vacation rental purposes, and all of which are zoned DR. Vacation rentals are a permitted use as of right in the DR land use district, subject to the criteria in MCC Section 9.5-534 (Section 132-1).

Monroe County Planning Department Staff is unable to provide support for a land use district map change to DR based on two criteria:

1. Recognition of the FLUM as RM – which is not compatible with DR zoning;
2. The inability of a “single lot” to meet the criteria of DR zoning, regardless of the initial inclusion in the DRI.

The requirements of Section 130-84 of the MCC provide the stringent criteria that the property must meet in order to qualify for a land use district change to IS-V. MCC Section 9.5-534 (Section 134-1) provides the criteria that the owner or agent of the property must meet after the property has been rezoned.

Staff Response: Staff has determined that the proposed map amendment is in accordance with MCC Section 102-158(d)(5)b(5) Recognition of a need for additional detail or comprehensiveness.

vi. *Data updates:*

Applicant Statement: None

Staff Response: Not applicable

C. *Consistency with Florida Statutes, Section 380.0552 Principles for Guiding Development in the Florida Keys Area of Critical State Concern:*

1 PRINCIPLES FOR GUIDING DEVELOPMENT.--State, regional, and local agencies
2 and units of government in the Florida Keys Area shall coordinate their plans and
3 conduct their programs and regulatory activities consistent with the principles for guiding
4 development as set forth in chapter 27F-8, Florida Administrative Code, as amended
5 effective August 23, 1984, which chapter is hereby adopted and incorporated herein by
6 reference. For the purposes of reviewing consistency of the adopted plan or any
7 amendments to that plan with the principles for guiding development and any
8 amendments to the principles, the principles shall be construed as a whole and no specific
9 provision shall be construed or applied in isolation from the other provisions.

10 (a) To strengthen local government capabilities for managing land use and
11 development so that local government is able to achieve these objectives without
12 the continuation of the area of critical state concern designation.

13 (b) To protect shoreline and marine resources, including mangroves, coral reef
14 formations, seagrass beds, wetlands, fish and wildlife, and their habitat.

15 (c) To protect upland resources, tropical biological communities, freshwater
16 wetlands, native tropical vegetation (for example, hardwood hammocks and
17 pinelands), dune ridges and beaches, wildlife, and their habitat.

18 (d) To ensure the maximum well-being of the Florida Keys and its citizens
19 through sound economic development.

20 (e) To limit the adverse impacts of development on the quality of water
21 throughout the Florida Keys.

22 (f) To enhance natural scenic resources, promote the aesthetic benefits of the
23 natural environment, and ensure that development is compatible with the unique
24 historic character of the Florida Keys.

25 (g) To protect the historical heritage of the Florida Keys.

26 (h) To protect the value, efficiency, cost-effectiveness, and amortized life of
27 existing and proposed major public investments, including:

- 28 1. The Florida Keys Aqueduct and water supply facilities;
- 29 2. Sewage collection and disposal facilities;
- 30 3. Solid waste collection and disposal facilities;
- 31 4. Key West Naval Air Station and other military facilities;
- 32 5. Transportation facilities;
- 33 6. Federal parks, wildlife refuges, and marine sanctuaries;
- 34 7. State parks, recreation facilities, aquatic preserves, and other publicly
35 owned properties;
- 36 8. City electric service and the Florida Keys Electric Co-op; and
- 37 9. Other utilities, as appropriate.

(i) To limit the adverse impacts of public investments on the environmental resources of the Florida Keys.

(j) To make available adequate affordable housing for all sectors of the population of the Florida Keys.

(k) To provide adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a post disaster reconstruction plan.

(l) To protect the public health, safety, and welfare of the citizens of the Florida Keys and maintain the Florida Keys as a unique Florida resource.

The proposed map amendment is consistent with the Principles for Guiding Development and not inconsistent with any principle.

D. Impact on Community Character:

“In no event shall an amendment be approved which will result in an adverse community change of the planning area in which the proposed development is located.”

Applicant Statement: The proposed map amendment will not result in an adverse community change of the planning area in which the proposed development is located. No FLUM change is required, and the property complies with the standards of MCC as set forth in Section 130-84.

Staff Response: MCC Section 102-158 maintains that amendments may not permit an adverse change in community character. Staff has determined the proposed land use designation of IS-V will not adversely change community character.

E. Land Use Compatibility:

Prior to 1986, the property had the land use designations of RU-3 or multi-family residential district. In the multi-family residential uses or RU-3 land use district, multi-family dwelling apartments for rent or sale were a permitted use.

In 1986, the land use designation for the subject property changed to DR. Neighboring land use districts include DR and IS. In 1987, the land use designation for the subject property changed to IS-D to preserve the multi-family character of the property

Staff has determined the proposed land use designation of IS-V is compatible with the surrounding land uses, which presently allow vacation rental under the DR designation.

1 F. *Density and Intensity:*

2
3 The subject property is 9,644 ft² (0.22 acres). Currently, the IS-D land use district
4 supports one (1) detached dwelling or duplex per lot with an open space ratio of 20%.
5 The FLUM designation of RM supports an allocated density for the IS-D land use district
6 at one (1) detached dwelling or duplex per lot and maximum net density bonuses do not
7 apply.
8

9 The proposed IS-V allows vacation rentals and has no land use density associated with it.
10 The existing duplex was constructed in conformance with the IS-D district. The propose
11 change will not affect the existing density, only the use of the property for vacation
12 rentals.
13

14 G. *Local Traffic and Parking:*

15
16 Local roads are already in place and have been well maintained. Adverse impacts on the
17 existing road conditions are not expected to change if the land use designation changes
18 from IS-D to IS-V.
19

20 H. *Effects on Natural Resources:*

21
22 Goal 102 of the Year 2010 Comprehensive Plan states that Monroe County shall direct
23 future growth to lands which are intrinsically most suitable for development and shall
24 encourage conservation and protection of environmentally sensitive lands. Future
25 development would be required to comply with all Monroe County Code, State and
26 Federal environmental regulations.
27

28 Because the subject property consists of cleared developed lots, no additional clearing is
29 anticipated for the proposed development. Effects on natural resources are not
30 anticipated.
31

32 I. *Effects on Public Facilities:*

33
34 Objective 101.11 of the *Monroe County Year 2010 Comprehensive Plan* requires the
35 County to direct future growth away from environmentally sensitive land and towards
36 established development areas served by existing public facilities. The proposed land use
37 district map amendment is consistent with Objective 101.11.
38

39 J. *Traffic Circulation:*

40
41 Section 114-2(1)b of the Land Development Code states that *all secondary roads to*
42 *which traffic entering or leaving development or use will have direct access shall have*
43 *sufficient available capacity to operate at a level of service D as measured on an annual*
44 *average daily traffic (ADDT) basis.* The proposed change of land use district to allow
45 vacation rentals within the subject property is not expected create any additional traffic
46 impacts.

1
2 K. *Solid Waste:*
3

4 Monroe County has a solid waste haul out contract with Waste Management LLC, which
5 authorizes the use of in-state facilities through September 20, 2016, thereby providing the
6 County with approximately ten (10) years of guaranteed capacity. The proposed land use
7 district map amendment may affect solid waste, but not significantly.
8

9 L. *Potable Water:*
10

11 In 2002, South Florida Water Management District approved an increase in Florida Keys
12 Aqueduct Authority's Water Use Permit. Monroe County's Public Facilities Capacity
13 Assessment Report indicates there are over 100 gallons of water available per person per
14 day. The 100 gallons per person per day standard is commonly accepted as appropriate
15 and is reflected in Policy 701.1.1 of the Monroe County Year 2010 Comprehensive Plan.
16 It is anticipated that the proposed land use district map amendment will not affect potable
17 water.
18

19 M. *Stormwater:*
20

21 The subject property, located in Tier III is scarified and developed. MCC Section 114-3
22 requires that all developments retain stormwater on site following Best Management
23 Practices (BMP's).
24

25 N. *Effects on Redevelopment/Infill Potential:*
26

27 Objective 102.3.1 of the Monroe County Year 2010 Comprehensive Plan directs the
28 County to encourage infill development where existing lands are already substantially
29 developed, served by complete infrastructure facilities and within close proximity to
30 established commercial areas and have few sensitive or significant environmental
31 features. The proposed land use district map amendment will not adversely affect
32 Objective 102.3.1.
33

34 VI FINDINGS OF FACT AND CONCLUSIONS OF LAW
35

- 36 1. The subject parcel is already cleared and developed.
37
38 2. Prior to 1986, the subject property was zoned RU-3.
39
40 3. In 1986, the land use district (zoning) of the subject property was changed to Destination
41 Resort (DR).
42
43 4. In 1987, the land use district (zoning) of the subject property was changed to Improved
44 Subdivision – Duplex (IS-D) to preserve the multi-family character of the property.
45

- 1 5. The proposed land use district map amendment to Improved Subdivision – Vacation
2 Rental will allow the existing duplex to be use for vacation rental purposes.
3
- 4 6. The proposed land use district map amendment will not adversely affect natural
5 resources.
6
- 7 7. The proposed land use district map amendment will not affect traffic circulation.
8
- 9 8. The proposed land use district map amendment will not affect solid waste.
10
- 11 9. The proposed land use district map amendment will not affect potable water.
12
- 13 10. The proposed map amendment is consistent with the provisions and intent of the Monroe
14 County Year 2010 Comprehensive Plan.
15
- 16 11. Staff has determined that the proposed map amendment is consistent with the Principles
17 for Guiding Development in accordance with F.S. Section 380.0552(7).
18

19 VII RECOMMENDATION
20

21 Staff recommends **approval** to the Acting Director of Planning and Environmental
22 Resources.
23